**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 5585 of 2007**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE MD SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**ISUBMIYA RASOOLMIYA MALEK**
**Versus**
**STATE OF GUJARAT & ORS.**

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**Appearance :**
MS KRISHNA U MISHRA for Petitioner:1
MR APURVA DAVE AGP for Respondent:1
RULE SERVED for Respondent(s) : 2 - 3.

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**CORAM : HONOURABLE MR.JUSTICE MD SHAH**

**Date : 12/12/2007**

**ORAL JUDGMENT**

1. Heard Ms.Krishna Mishra, learned advocate for the petitioner and Shri Apurva Dave,

learned AGP for respondents State.

2. By way of the present petition, the petitioner-detenu has challenged the legality and validity of the order of detention dated 17.02.2007 passed by the Police Commissioner, Ahmedabad City, in exercise of powers under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 (for short “the Act”).

3. The petitioner-detenu is branded as a “Cruel Person” within the meaning of Section 2(bbb) of the Act as he was found involved in offence under the Bombay Prevention of Animal Act and under the Prevention of Cruelty Animal Act. The petitioner-detenu was found in possession of 1800 kg of mutton of 9 bullocks. He also found with some live animals and weapons like three knives, axe etc. While passing the order of detention, the Detaining Authority has mainly considered the fact of registration of a single offence punishable under Sections 5,6 and 8 of the

Bombay Prevention of Animal Act and Section 11(l) of the Prevention of Cruelty Animal Act registered as CR. No.3013 of 2007.

4. The learned Advocate for the petitioner-detenu has assailed the order under challenge on various grounds. However, this petition is capable of being disposed of on the sole ground that the order of detention is based on registration of a solitary offence. Reference in this connection may be had to the decision rendered in the case of **SOHANLAL SURAJARAM VISONY VS STATE OF GUJARAT** reported in **2004 (2) GLR 1051.**

5. The present case can at the most be said to be involving law and order. It is therefore difficult for this Court to accept that the petitioner has been rightly detained as the activities of the petitioner can at the most be termed as affecting law and order. In short, no further discussion on the other points raised in this petition is required as in the opinion of this Court, the order of

detention is not sustainable in the eye of law.

6. For the reasons recorded in the judgment dictated today, the petition is allowed. The impugned order of detention dated 17.02.2007 passed by the Police Commissioner, Ahmedabad City is quashed and set aside. The detenu Isubmiya Rasoolmiya Malek is ordered to be set at liberty forthwith if not required in connection with any other case by any other authority. Rule is made absolute accordingly. Direct service is permitted.

(***M.D.SHAH,J.***)

Amit/-